

JOURNALS

OF THE

SENATE

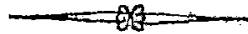
OF THE

FIRST LEGISLATURE

OF THE

STATE OF TEXAS.

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1848.

A message was received from the Governor, returning an act organizing Justices' courts, without his signature, and his reasons therefor in writing.

EXECUTIVE DEPARTMENT, }
Austin, 20th April, 1846. }

To the Honorable, the Senate:

The Executive herewith returns to your honorable body, without his approval, a bill entitled "an act to organize Justices courts, and to define the powers and jurisdiction of the same." The fifth section of this bill gives to Justices of the Peace, jurisdiction over assaults and batteries, riots and affrays, and proposes to authorize them to try persons accused of the offences named, without the intervention of a jury, and to impose fines upon the accused where, in the Justice's opinion, they are guilty of the offence charged against them. That section of the act is, in the opinion of the Executive, clearly unconstitutional. The 8th section of the "bill of rights" declares that "in all criminal prosecutions, the accused shall have a speedy public trial by an impartial jury," and the 10th section of "article fourth" of the Constitution provides, that "in the trial of criminal cases, the jury trying the same, shall find and assess the amount of punishment to be inflicted or fine imposed, except in capital cases and where the punishment or fine imposed shall be specifically imposed by law," and the act under consideration would deprive defendants of those two Constitutional privileges. If, however, no constitutional provision interposed to compel him to withhold his approval of this bill, the Executive would regard it as highly inexpedient to repose in the hands of Justices of the Peace the power proposed by the section referred to. It would be giving li-

sense to persons to commit the offences enumerated—the turbulent and violent would set the authority of the magistrate at defiance, and none but the more peaceful and submissive, would pay the penalty of the law in such cases.

The Executive, therefore, feels it to be his duty to return the bill for the reconsideration of the Legislature.

J. PINCKNEY HENDERSON.

Senate adjourned until 3 o'clock P. M.
